

Remarks:

Claims 39-57 are pending. Of these, claims 39, 40, 42-51 and 53-57 stand rejected as being anticipated by DE '013. Claims 41 and 52 stand rejected as being obvious in view of DE '013.

Applicants respectfully submit that the rejections under 35 U.S.C. §102 lack sufficient explanation and deny Applicants a fair opportunity to respond. The Office Action also fails to state a *prima facie* case of obviousness under 35 U.S.C. § 103.

Claim Rejections - 35 U.S.C. § 102

Applicants refer to the following governing section of the Code of Federal Regulations:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. ***The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.***

37 C.F.R. § 1.104(c)(2). Here, the Office Action only explains the pertinence of DE '013 to claim 39. The rationales for the remaining §102 rejections are not provided, and are not apparent in DE '013. Therefore, the Office Action does not comply with the basic requirements of 37 C.F.R. § 1.104(c)(2) and must be withdrawn.

In addition to the foregoing, Applicants point out the following deficiencies.

With regard to claims 45, 46, 54 and 55, DE '013 does not disclose an "end portion" with an axial spring force component. By "axial", Applicants are referring to directional arrow 3 in FIG. 2b. Applicant refers to the paragraph beginning on page 9, line 31 of Applicants' specification, and the sloped edge 19 of spring arm 26 in FIG. 2b, for an example of this feature. The Office Action does not identify what feature in DE '013 is the "end portion" or how it comprises an axial spring force component. Assuming that element 11 of DE '013 is the end portion, it does not have a sloped edge or other feature that imparts an axial spring force. Because DE '013 does not teach each and every element of claims 45, 46, 54 and 55, claims 45, 46, 54 and 55 are not anticipated by DE '013.

With regard to claim 49, DE '013 does not appear to disclose a contact surface adjacent a guide channel, wherein a section of the contact surface is partially cut to form a flexible fixing clamp. Tabs 35 in FIG. 7 appear to be partially cut sections, but they are not clamps. Because

DE '013 does not teach each and every element of claim 49, claim 49 is not anticipated by DE '013.

35 U.S.C. § 103

Claims 41 and 52 stand rejected as being obvious in view of DE '013. The Office Action cites *In re Dailey* for the proposition that a configuration of a claimed object is an obvious matter of design choice absent persuasive evidence that the particular configuration is significant. Here, the Office Action suggests that a V-shape for the hinged portion is obvious because there is no evidence of any significance of a V-shape. This is incorrect. The specification makes clear that the V-shaped configuration provides an easy mountability of the brake pad by radial insertion (Spec., at p. 9, lines 19-30). Therefore, the rejections of claims 41 and 52 are clear error and must be retracted in view of the evidence of record.

Conclusions

Applicants respectfully request withdrawal of the rejections for the reasons stated above. If the rejections are maintained with new reasoning, Applicant respectfully requests that prosecution be reopened as required by MPEP § 706.07(a) to allow the Applicant to address the new grounds of rejection that are introduced.

Respectfully submitted,



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